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Voyager Indemnity Insurance Company

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

VOYAGER INDEMNITY INSURANCE COMPANY,

Case No.: 2:23-cv-00971-APG-BNW

Plaintiff

**STIPULATED DISCOVERY PLAN
AND SCHEDULING ORDER**

ARLENE F. LOPEZ, individually,

SPECIAL SCHEDULING REVIEW REQUESTED

ABLENE E LOPEZ, individually

Counteralignment

VS

**VOYAGER INDEMNITY INSURANCE
COMPANY,**

Counterdefendant.

Plaintiff and Counterdefendant Voyager Indemnity Insurance Company, (“Plaintiff”) and Defendant and Counterclaimant Arlene F. Lopez (“Defendant”), by and through the undersigned counsel and party, hereby submit their Stipulated Discovery Plan and Scheduling Order pursuant

1 to Fed. R. Civ. P. 26(f) and LR 26-1.

2 **I. Fed. R. Civ. P. 26 Meeting**

3 Counsel for Defendant, L. DiPaul Marrero II, and Counsel for Plaintiff, Raymond
4 Tittmann and Anneliese Bradley, participated in a Rule 26(f) Conference on October 23, 2023.

5 **II. Special Scheduling Review Requested**

6 The Parties note that an arbitration was conducted in the underlying action pending in
7 Clark County, Nevada, entitled *Arene Lopez v. Mickey Tomar et al.*, Case No. A-18-781639-C
8 (“Underlying Action”). Arbitration went forward on July 11, 2023, but the parties have not
9 received a Judgment at the time of filing this Stipulated Discovery Plan and Scheduling Order.

10 **Defendant’s Position:** Defendant maintains that a Judgment in the Underlying Action is
11 required to proceed with discovery and therefore requests an additional 60 days to be added to
12 all deadlines that would normally be calculated in compliance with Fed. R. Civ. P. 26(f) and LR
13 26-1(b).

14 **Plaintiff’s Position:** Plaintiff maintains that the Parties are able to proceed with
15 discovery before obtaining a Judgment in the Underlying Action. However, Plaintiff agrees not
16 to oppose Defendant’s request for additional time.

17 The Parties have therefore calculated the following deadlines in accordance with
18 Defendant’s request and hereby seek special scheduling review by the Court.

19 **III. Initial Disclosures**

20 The Parties will exchange their respective Initial Disclosures on or before **January 5,**
21 **2024**, seventy-four (74) days after the Rule 26(f) Conference. The Parties do not anticipate any
22 changes to the timing, form, or requirement for such disclosures.

23 **IV. The Subjects on Which Discovery Will Be Conducted**

24 The Parties agree that discovery will be needed on Plaintiff’s and Defendant’s claims and
25 causes of action, any damages, as well as the defenses to the same, consistent with the Federal
26 Rules of Civil Procedure and the Local Rules of this District.

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1 **V. Issues Related to The Disclosure or Discovery of Electronically Stored Information**

2 No issues at this time. The parties will meet and confer should any issues arise prior to
3 involving the Court.

4 **VI. Issues Relating to Claims of Privilege or Attorney-Work Product**

5 The Parties agree to be bound by Federal Rule of Evidence 502 regarding the disclosure
6 of privileged material or work product. Further, the Parties acknowledge and agree that while
7 each is taking reasonable steps to identify and prevent disclosure of any document which they
8 believe is privileged, there is a possibility that certain privileged material may be produced
9 inadvertently. Accordingly, the Parties agree that a party who produces a document protected
10 from disclosure by the attorney-client privilege, attorney-work product doctrine, or any other
11 recognized privilege (“Privileged Document”) without intending to waive the claim of privilege
12 associated with such document may promptly, meaning within fifteen (15) days after the
13 producing party actually discovers that such inadvertent disclosure occurred, amend its discovery
14 response and/or notify the other party that such document was inadvertently produced and should
15 have been withheld. Once the producing party provides such notice to the requesting party, the
16 requesting party must promptly, meaning within seventy-two (72) hours, return the specified
17 document(s) and any physical copies thereof and if the document(s) only exist electronically, the
18 requesting party shall certify in writing to the producing party that the document(s) have been
19 destroyed and are no longer in their possession. By complying with this obligation, the
20 requesting party does not waive any right to challenge the assertion of privilege and request an
21 order of the Court denying such privilege.

22 **VII. Limits on Discovery**

23 At this time, the Parties agree that discovery will be conducted with the Federal Rules of
24 Civil Procedure and applicable Local Rules of this District Court without limitation or
25 modification of the same. The Parties will not conduct discovery in phases, and the discovery
26 will not be limited to particular issues.

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1 **VIII. Alternative Dispute Resolution**

2 The Parties hereby certify that they have met and conferred about the possibility of using
 3 alternative dispute resolution processes including mediation and arbitration.

4 **IX. Alternative Forms of Case Disposition**

5 The Parties hereby certify that they considered consent to trial by a magistrate judge
 6 under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program. At this
 7 time, the Parties do not consent to trial by the magistrate judge or to the use of the Court's Short
 8 Trial Program.

9 **X. Discovery Plan**

10 All discovery in this case will be conducted in accordance with the Federal Rules of Civil
 11 Procedure and applicable Local Rules of this District Court. As such, the Parties propose to the
 12 Court the following cut-off dates:

13 a. **Discovery Cut-off Date:** The discovery cut-off deadline shall be **May 22, 2024**,
 14 240 days after Defendant filed her Answer on September 25, 2023.

15 b. **Amending the Pleadings and Adding Parties:** The deadline to amend
 16 pleadings or add parties shall be **February 22, 2024**, 90 days before the discovery cut-off date.

17 c. **Expert Disclosures:** The expert disclosure deadline shall be **March 22, 2024**,
 18 sixty (60) days prior to the discovery cut-off date.¹ Rebuttal expert disclosures shall be made by
 19 **April 22, 2024**, thirty (30) days after the deadline to disclose initial experts, in accordance with
 20 LR 26-1(b)(3).² The Parties shall have until the discovery cut-off date to take the depositions of
 21 the experts. Expert discovery will be conducted in accordance with applicable Federal Rules of
 22 Civil Procedure and Local Rules of this District Court, specifically, Fed. R. Civ. P. 26(a)(2) and
 23 26(b)(4), and Local Rules 26-1(b)(3).

24 d. **Dispositive Motions:** Dispositive motions shall be filed by **June 21, 2024**, thirty
 25 (30) days after the discovery cut-off date, in accordance with LR 26-1(b)(4). The parties
 26 anticipate filing cross motions for summary judgment given that the facts do not appear to be in
 27 dispute, and will meet and confer about appropriate timing.

28 ¹ The deadline for initial expert disclosures is adjusted one (1) day to account for the weekend.

2 ² The deadline for rebuttal expert disclosures is adjusted one (1) day to account for the weekend.

1 e. **Motions in Limine/*Daubert* Motions:** Pursuant to LR 16-3(a), and unless the
 2 District Judge issues an Order with a different deadline or briefing schedule, any motions in
 3 limine, including *Daubert* type motions, shall be filed and served thirty (30) days prior to trial
 4 unless the District Judge issues an order with a different deadline or briefing schedule.
 5 Oppositions shall be filed and served and the motion submitted for decision fourteen (14) days
 6 thereafter. Reply briefs will only be allowed with leave of court.

7 f. **Pretrial Order:** The Pretrial Order shall be filed not later than **July 22, 2024**,
 8 thirty (30) days after the deadline for filing dispositive motions date of June 21, 2024, in
 9 accordance with LR 26-1(b)(5).³ In the event dispositive motions have been filed, the Pretrial
 10 Order shall be suspended until thirty (30) days after a decision of the dispositive motions or
 11 further order of the Court.

12 g. **FRCP 26(a)(3) Disclosures:** The disclosures required by Fed. R. Civ. P. 26(a)(3)
 13 and any objections thereto, shall be included in the final pretrial order in accordance with LR 26-
 14 1(b)(6).

15 h. **Extensions or Modifications of the Discovery Plan and Scheduling Order:** In
 16 accordance with LR 26-3, any motion or stipulation to extend a deadline set forth in this
 17 discovery plan and scheduling order shall be received by the Court no later than twenty-one (21)
 18 days before the expiration of the subject deadline. A request made within 21 days of the subject
 19 deadline will be supported by a showing of good cause. Any stipulation or motion will comply
 20 fully with LR 26-3.

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³ The deadline for filing the Pretrial Order is adjusted one (1) day to account for the weekend.

1 **XI. Other Orders**

2 At this time, the Parties do not anticipate that the court will need to issue any other orders
 3 under Rule 26(c) or under Rule 16(b) and (c).

4 IT IS SO STIPULATED.

5 DATED: November 6, 2023

<p>Dated: November 6, 2023</p> <p>TITTMANN WEIX</p> <p><u>/s/ Anneliese Bradley</u> Raymond J. Tittmann, <i>pro hac vice</i> Anneliese J. Bradley, <i>pro hac vice</i> 350 S. Grand Ave., Suite 1630 Los Angeles, CA 90071 Attorneys for Plaintiff Voyager Indemnity Insurance Company</p> <p>Ryan J. Works (NSBN 9224) Amanda M. Perach (NSBN 12399) MCDONALD CARANO LLP 2300 West Sahara Avenue, Suite 1200 Las Vegas, Nevada 8910 Attorneys for Plaintiff Voyager Indemnity Insurance Company</p>	<p>Dated: November 6, 2023</p> <p>VANNAH & VANNAH</p> <p><u>/s/ L. DiPaul Marrero, II</u> L. DiPaul Marrero, II (NSBN 12441) 400 South Seventh Street, Suite 400 Las Vegas, Nevada 89101 Attorneys for Defendant Arlene F. Lopez</p>
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18 **IT IS SO ORDERED:**

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 20 UNITED STATES MAGISTRATE JUDGE

21 DATED: 11/8/2023